

1 Rene L. Valladares
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United States District Court
District of Nevada

Jess Elijo Carranza, Jimmy Carter Kim,

Plaintiffs/Petitioners,

V.

Brian Koehn, Warden, Nevada Southern Detention Center.

Defendant/Respondent

Case No. 2:20-cv-01586-GMN-DJA

Motion for Appointment of Counsel

One of the arguments Respondent raised in its motion to dismiss is that undersigned had not been appointed to represent petitioners in this action. The Federal Public Defender's Office has been appointed to represent Petitioners in their underlying criminal cases,¹ and that appointment extends to ancillary proceedings.² This Court should find that this is an ancillary proceeding and that reappointment is therefore not necessary and the FPD is properly representing Petitioners in this action.

Alternatively, Petitioners move for appointment of counsel under 18 U.S.C. §3006A(2)(B), which authorizes this Court to provide representation for any

¹ *United States v. Carranza*, 2:19-cr-00310-RFB-BNW, ECF No. 9; *United States v. Kim*, 2:18-cr-00836, ECF No. 10.

² 18 U.S.C. § 3006A(c).

1 financially eligible person seeking relief under § 2241 when “the interests of justice
2 so require.” Petitioners financially qualified for the appointment of counsel when
3 they made their initial appearances in their respective criminal cases. Their
4 financial situations have not improved while in custody, and they remain indigent.
5 Due to the complexity of the legal issues, the important issues at stake, and the
6 likelihood of success on the merits, appointment of counsel is in the interest of
7 justice. Additionally, undersigned is aware of at least one case in which the Federal
8 Public Defender’s Office has been appointed to represent prisoners challenging
9 conditions under § 2241 post-conviction in the context of COVID-19, *Stirling v.*
10 *Salazar*.³ Appointment is even more appropriate in the pretrial context where the
11 FPD Office is already representing Petitioners.

12
13 Dated September 28, 2020.

14 Respectfully submitted,
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16 Rene L. Valladares
17 Federal Public Defender
18 /s/ Erin Gettel
19 Erin Gettel
20 Assistant Federal Public Defender
21

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23 ³ 3:20-cv-00712, ECF No. 24 (D. Or. 2020). The docket also refers to *Stirling*
24 v. BOP, et al., because the petitioner had originally filed pro se naming the BOP,
25 Sheridan FDC, and Sheridan FDC staff. ECF No. 1. Because *Stirling* had already
26 been sentenced and was serving a BOP sentence, the FPD was not currently
27 representing him as is the case here. The Court sua sponte appointed the Oregon
Federal Public Defender’s Office in the interest of justice under 18 U.S.C.
3006A(a)(2)(B). ECF No. 4. After the FPD was appointed, it filed an amended
petition/complaint naming the proper respondent, the Warden of FCI Sheridan.
ECF No. 16. The petition remains pending.

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 The undersigned hereby certifies that he is an employee of the Federal Public
3 Defender for the District of Nevada and is a person of such age and discretion as to
4 be competent to serve papers.

5 That on September 28, 2020, he served an electronic copy of the above and
6 foregoing Motion for Appointment of Counsel by electronic service (ECF) to the person
7 named below:

8
9 NICHOLAS A. TRUTANICH
10 United States Attorney
11 HOLLY A. VANCE
12 Assistant United States Attorney
13 501 Las Vegas Blvd. South
14 Suite 1100
15 Las Vegas, NV 89101

16
17 _____
18 */s/ Brandon Thomas*
19 Employee of the Federal Public
20 Defender
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